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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/496,771	02/03/00	BELL	S 37070/198653

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HM12/0714

EXAMINER

ZEMAN, R

ART UNIT	PAPER NUMBER
1645	4

DATE MAILED: 07/14/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. <b>09/496,771</b>	Applicant(s) <b>Bell et al.</b>
Examiner <b>Robert A. Zeman</b>	Group Art Unit <b>1645</b>

Responsive to communication(s) filed on Feb 3, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-77 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-77 are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, 17, 18, 40-43, 47-50, 53, 57, 62-65 and 77, drawn to calcium phosphate particles complexed with antigenic viral proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles, classified in class 424, subclass 196.11.
- II. Claims 1- 2, 19-20, 43, 47-50, 53, 57, 63 and 77, drawn to drawn to calcium phosphate particles complexed with antigenic bacterial proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles, classified in class 424, subclass 197.11.
- III. Claims 1-2, 21-23, 43, 47-50, 53, 57, 63 and 77, drawn to drawn to calcium phosphate particles complexed with antigenic fungal proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles, classified in class 424, subclass 274.1.
- IV. Claims 1-2, 4, 9, 24, 25, 47-50, 54, 58, 66 and 77, drawn to calcium phosphate particles complexed with antigenic immunoenhancers, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles, classified in class 424, subclass 195.11.

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- V. Claims 1-2, 5, 10, 26-34, 44, 47-50, 55, 59-60, 67-70 and 77, drawn to drawn to calcium phosphate particles complexed with polynucleotides, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles, classified in class 514, subclass 44.
- VI. Claims 1-2, 6, 11, 36-39, 45-50, 56, 61 and 71-77, drawn to drawn to calcium phosphate particles complexed with therapeutic proteins or peptides, methods for making said particles and methods for delivering said particles, classified in class 514, subclass 2.
- VII. Claims 1-2, 7-8, 12-16, 47-52 and 77, drawn to calcium phosphate particles complexed with surface modifying agent and methods for making said particles, classified in class 424, subclass 600.

Claims 1, 2, 47-50 and 77 are included in Inventions I-VII and will be examined with any elected group

Claims 43, 53, 57 and 63 are included in Inventions II, III and IV. Said claims will be examined if any of the aforementioned groups are elected.

The inventions are distinct, each from the other because of the following reasons:  
Inventions I-VII are each separate and distinct as they comprise completely differing biochemical and immunological entities having differing properties and uses.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Zeman whose telephone number is (703) 308-7991. The examiner can be reached between the hours of 7:30 am and 4:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Donna Wortman, Primary Examiner can be reached at (703) 308-1032 or the examiner's supervisor, Lynette Smith, can be reached at (703)308-3909.

  
DONNA WORTMAN  
PRIMARY EXAMINER

Robert A. Zeman

July 13, 2000